

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TIMOTHY J. WILEY,

Plaintiff,

vs.

AUSTIN, 552 Employee, in Individual Capacity; TERRI, Unit Manager, in Individual Capacity; DREW ENGLISH, Compliance Team, in Individual Capacity; DON WHITMOR, Compliance Team, in Individual Capacity; VICTOR, Therapist, in Individual Capacity; JAMES C., Patient - 3F Unit, in Individual Capacity; JOKER T., Patient - 3F Unit, in Individual Capacity; MIKE EPPMAN, Social Worker, in Individual Capacity; and JAKE, 552, in Individual Capacity;

Defendants.

8:20CV220

MEMORANDUM AND ORDER

Plaintiff Timothy J. Wiley, a non-prisoner,¹ filed a Motion for Leave to Proceed in Forma Pauperis. ([Filing 2](#).) Upon review of Plaintiff's Motion, the court finds that Plaintiff is financially eligible to proceed in forma pauperis.

¹ Plaintiff's Complaint (filing no. 1) indicates he is committed to a state mental institution. Thus, Plaintiff is not a "prisoner" within the meaning of the PLRA. *See Reed v. Clarke*, No. 4:04CV3168, 2005 WL 1075092, at *1 n.1 (D. Neb. May 5, 2005) ("The plaintiff is presently in the Lincoln Regional Center pursuant to a mental health commitment. The Prison Litigation Reform Act ('PLRA') does not apply to persons in custody pursuant to the Mental Health Commitment Act, as the definition of 'prisoner' in the PLRA does not include a person involuntarily committed for reasons of mental health.") (citing *Kolocotronis v. Morgan*, 247 F.3d 726, 728 (8th Cir.2001)).

IT IS THEREFORE ORDERED that leave to proceed in forma pauperis is granted, and the Complaint shall be filed without payment of fees. Plaintiff is advised that the next step in his case will be for the court to conduct an initial review of his claims to determine whether summary dismissal is appropriate under 28 U.S.C. § 1915(e)(2). The court will conduct this initial review in its normal course of business.

Dated this 12th day of June, 2020.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge